

REMARKS

This Amendment is in response to the Office Action mailed November 15, 2004. The Examiner's comments in that Office Action have been carefully considered.

Applicants enclose a check in the amount of \$260.00 in payment of a one-month extension of time (\$60.00) to extend the due date to March 15, 2005, and also to pay the fee for the two extra independent claims (\$200.00). In the event that this amount is insufficient, please charge any remainder due to our account no. 10-0100.

Claims 1-4, 6-9 and 11 have been rejected on the basis of prior art, although claims 5 and 10 have merely been objected to. The Examiner has indicated that claims 5 and 10 contain allowable subject matter and would be allowed if rewritten in independent form. Claims 12-20 have been allowed.

Claims 1, 2, 5 and 7 have been rejected as being fully anticipated by U.S. Patent No. 6,223,446 issued to Potter ('446). Claims 1, 7, 8 and 11 have similarly been rejected as being fully anticipated by U.S. Patent No. 2,684,534 to Ljungberg ('534). On the other hand, claims 2 and 4 have been rejected as being obvious on the basis of Ljungberg '534 in view of or when combined with U.S. Patent No. 6,497,050 to Ricalde ('050), for reasons set forth in paragraph 5 of the Office Action. Claims 3 and 9 have similarly been rejected on the basis of Ljungberg '534 in view of or when combined with U.S. Patent No. 6,237,243 to Cook, for reasons set forth in paragraph 6 of the Office Action. Claim 6 has been rejected as being obvious on the basis of Ljungberg '534 on its own, for reasons set forth in paragraph 7 of the Office Action.

In view of the foregoing, the only independent claim that is under rejection is claim 1,

with rejected claims 2-4, 6-9 and 11 being dependent, directly or indirectly, on claim 1.

Claims 5 and 10 have been canceled without prejudice and rewritten in independent form as claims 21 and 22 to place these claims into condition for allowance.

For reasons more fully set forth below, and in view of the amendments made to claim 1, the Examiner's rejections are respectfully traversed. The Examiner is respectfully requested to reconsider and withdraw the rejections of claim 1 and of remaining rejected claims that depend, directly or indirectly, on claim 1.

Turning to independent claim 1, this claim has been amended to set forth that the tape measure includes a tape measure housing. While such housing may have been inherent or implied in the claim, this revision to the claim has been made to avoid any ambiguity or indefiniteness. The claim has now also been amended to specifically set forth that the first tape is internally stored in a cavity in the tape measure housing and is extendable from the cavity within such housing. It is also noteworthy that the second tape is now clearly required to be internally stored in a guide within said tape measure housing and removable from said housing. As currently set forth, claim 1 clearly and patentably distinguishes over both Potter and Ljungberg, each of which has been used to reject claim 1 on the basis of full anticipation under 35 U.S.C. §102.

The patent to Potter is for a grade/level measuring device and has a primary housing and secondary casing that contain tape measuring blades. However, it is clear that Potter fails to disclose, or even remotely suggest, a tape measure housing that both has a cavity to receive the first tape and, within the same housing, includes a guide for internally receiving the second tape,

such that the second tape is removable from the housing, while the first tape is extendable from such housing.

Referring to Potter, this patent discloses a grade/level measuring device that includes a primary housing and a secondary casing that contain tape measuring blades. As best shown in Figs. 10-12, it will be evident that the Potter measuring device is useful for making measurements along two orthogonal directions (x-axis and y-axis). It is clear, however, that Potter does not teach a single tape measuring housing that receives, stores and provides two separate tapes that emanate from one common housing. Instead, Potter effectively teaches the use of two separate tape measures, the housings of which may be connected or joined to each other for making certain types of measurements in three-dimensional space.

The patent to Ljungberg '534 is likewise for a measuring device. This patent illustrates a single housing that has a generally conventional tape mechanism. A second tape 15, in the form of a short flexible steel strip, is secured to the outside of the tape measure housing by means of a screw 13 and a rivet 14 (Fig. 3). The patentee expressly states that the steel strip 15 usually has no graduations or markings, one of the uses for the device being to facilitate insertion of the measuring device into a hollow article having a narrow mouth when it is desired to make inside measurements therein. Notably, the tape or steel strip 15 in Ljungberg is neither received within a guide within the tape measure housing nor is it removable therefrom as clearly required by the subject application's claim 1. Instead, the steel strip 15 is permanently riveted or fixedly attached to the outside of the tape measure housing.

In view of the foregoing, it is respectfully submitted that claim 1 clearly and patentably

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distinguishes over both Potter and Ljungberg and that neither one of these patent reads on and, therefore, anticipates the invention as defined in claim 1.

The remaining claims depend directly or indirectly on presumably allowable claim 1 and, therefore, should be allowed with the allowance thereof. Thus, for example, claim 2 specifies that the removable or second tape is fully removable from the tape measure housing, and it is clear that in neither of the patents to Potter or Ljungberg is any tape fully removable from the inside of a housing so that the tape becomes a standalone tape, separate and apart from the tape measuring device as a whole.

This application is now believed to be in condition for allowance. Early allowance and issuance is therefore respectfully solicited.

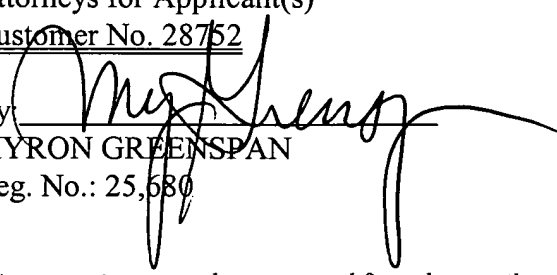
Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.

Date: March 15, 2005

Respectfully submitted,

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March 15, 2005

Date